

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

UNITED STATES OF AMERICA,) **Case No. 3:14-cr-00293-M-1**
)
Plaintiff,)
) Dallas, Texas
v.) September 15, 2014
) 10:30 a.m.
JOHN WILEY PRICE,)
) MOTION FOR APPOINTMENT
Defendant.) OF COUNSEL [30]
)

TRANSCRIPT OF PROCEEDINGS
BEFORE THE HONORABLE RENEE HARRIS TOLIVER,
UNITED STATES MAGISTRATE JUDGE.

APPEARANCES:

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1 DALLAS, TEXAS - SEPTEMBER 15, 2014 - 10:24 A.M.

2 THE COURT: This is Case No. 3:14-cr-293-M, USA versus
3 Price. And of course, we're here on the motion of Mr. Price
4 for appointment of CJA counsel. I did, of course, get an
5 opportunity to review the motion, as well as the response and
6 as well as the reply. And of course, the statute contemplates
7 -- actually, states that I shall make an inquiry into Mr.
8 Price's financial affidavit, which is the -- I mean, excuse me,
9 his financial circumstances, which is the point of today's
10 hearing.

11 Before we get started, in the reply, Mr. Ravkind, I noticed
12 your ire with the Government, but I did not note that you
13 contested anything that they have suggested, as far as Mr.
14 Price's financial ability, his finances, anything they've
15 suggested. And so I wanted to give you that opportunity if
16 there was something more that you wanted to say or contest as
17 far as what they have suggested are additional or different
18 resources available to Mr. Price.

19 MR. RAVKIND: Your Honor, the only thing -- is it all
20 right if I --

21 THE COURT: Of course.

22 MR. RAVKIND: The only thing that I could add, which
23 is probably in our motion, is that he has some assets. His
24 problem is, he's totally illiquid. And this case, I think the
25 Government will agree with me, is going to last a long time.

1 And Her Honor, who usually doesn't give us this kind of time,
2 has given us a year and a half --

3 THE COURT: Right.

4 MR. RAVKIND: -- to get ready. So, I can't speak to
5 that issue. And he doesn't have that kind of money. He's got
6 some cars. I don't know anybody who would take a car as a
7 legal fee. I used to when I was younger, but not anymore.

8 THE COURT: Has he made any inquiry, though, about
9 selling the residence that's not the one where he lives or
10 selling any of the car collection or liquidating any of those
11 illiquid assets?

12 MR. RAVKIND: If he has, I am unaware of it. And I
13 would think I would know. His son lives in his house on -- I
14 think it's on Fifth Street. The only reason I know about it, I
15 used to do the Turkey Trot and I used to jog by it, so I kind
16 of know where it is.

17 I think our motion speaks to what the problem -- it's not a
18 problem, it's just a fact. It's a complicated case that the
19 Government itself spent months if not longer getting ready.
20 The district judge, Judge Lynn, commented at our one meeting
21 that she thought it was as complex a case she had ever seen.
22 And --

23 THE COURT: Yes, sir, I know. I was there with you.

24 MR. RAVKIND: And she also commented that if there was
25 a case that required two lawyers -- I know that the Government

1 is not used to spending money on lawyers.

2 THE COURT: The problem in your case is that, for the
3 two-lawyer situation to apply, the one-lawyer situation has to
4 first apply, which means that Mr. Price's resources have to be
5 such that he's entitled to a Criminal Justice Act attorney.
6 And at this point, I'm not seeing it. I'm just going to be
7 honest with you. And it has nothing to do with the
8 complication of the case so much as what appears to be the
9 assets that he has available to him that he's not yet expended
10 in pursuit of counsel.

11 And there are a couple of different things going on here,
12 because I know you mention in there about -- in your motion
13 about being able to hire experts. Well, we're not at that
14 point yet. And also, you know, we've had situations where a
15 person didn't qualify for CJA counsel but it didn't prevent
16 them from requesting and also being granted the opportunity to
17 share in the CJA discovery, which is available to you as well.

18 But at this point, there is no way I could even twist it,
19 based on all that I've seen here, to say that he cannot afford
20 to hire counsel.

21 MR. RAVKIND: Your Honor, I don't know what counsel he
22 could hire.

23 THE COURT: Well, he's hired you.

24 MR. RAVKIND: But I've been representing him for
25 nothing for a long time. I just can't afford to do it anymore.

1 THE COURT: I understand.

2 MR. RAVKIND: Otherwise, I would still hang in. I
3 seldom ask to be appointed.

4 THE COURT: I understand, but he's going to have to
5 expend his resources first. He's not going to be able to keep
6 his resources and have the Government pay \$175 an hour for him
7 to have counsel. It's not going to be your fee, anyway. It's
8 going to be what they pay CJA counsel, which is \$175 an hour.

9 MR. RAVKIND: Right.

10 THE COURT: And before he gets to that, I mean, even
11 in these cases that are complicated, even in the capital murder
12 cases, the Fifth Circuit is looking at limiting -- and I'm just
13 looking at the last one that I had with Judge Lynn -- looking
14 at limiting counsel to, you know, maybe \$100,000 total in the
15 case. And that's in a death penalty case. And so right now
16 the Government is saying and you're not contesting that he's
17 got \$60,000 of that in a fund that the law allows him to use to
18 hire counsel. He's got automobiles that he's not driving that,
19 if he attempted to sell, he might be able to sell for that, and
20 he would have even more money than what we're envisioning the
21 Government would actually pay for him to have one attorney.

22 MR. RAVKIND: Your Honor, respectfully, --

23 THE COURT: Yes?

24 MR. RAVKIND: -- as Your Honor is probably aware,
25 there's a forfeiture count in the indictment and there's a

1 forfeiture case that's already in court in front of Judge Lynn.

2 MS. LOBEL: No. Fitzwater.

3 MR. RAVKIND: Excuse me.

4 MS. LOBEL: Fitzwater.

5 MR. RAVKIND: Judge Fitzwater. Excuse me. I've read
6 cases where there are forfeiture, and it seems I'm obligated to
7 tell you what I know bad, the only bad thing I know about was
8 he's totally illiquid. I mean, the cars may be worth
9 something. I don't know who -- I have no idea --

10 THE COURT: Well, what about the campaign fund?

11 MR. RAVKIND: Well, I don't --

12 THE COURT: I mean, the campaign funds?

13 MR. RAVKIND: Well, the campaign fund is only, what,
14 \$15,000?

15 (Counsel confer.)

16 THE COURT: Because that's one of the things you
17 didn't offer any opposition to so far, is the Government says
18 that there is about \$60,000 that should be there based on his
19 reports of what he's reporting that he's taken in and spent in
20 campaign donations and expenditures.

21 MR. RAVKIND: Well, I imagine he's got a campaign
22 coming up. I don't know. I've never taken campaign funds.

23 THE COURT: Well, we can't be concerned about that at
24 this point. I mean, we have to be concerned with what he has,
25 not, in the future, he's going to have a campaign.

1 MR. RAVKIND: Well, I don't know how to address that.
2 \$15,000. Or if he had, I'm aware -- unaware that he has that
3 much money, but if he had \$30,000 or \$40,000, that might get us
4 to -- halfway to first base in this case.

5 THE COURT: Okay. Well, --

6 MR. RAVKIND: And that's the problem.

7 THE COURT: And so we're not talking about a situation
8 where he can never come back and say his circumstances changed.
9 But right now his circumstances, according to what I have
10 before me, are that he can afford to hire counsel.

11 MR. RAVKIND: Your Honor, --

12 THE COURT: At least at the rate the Government would
13 be reimbursing or paying someone to represent him.

14 MR. RAVKIND: Respectfully, Your Honor, I don't think
15 he could get an attorney for what he's got in his campaign
16 fund. No way. The Government, as you know, has estimated
17 their case is going to take four months. I've been with my
18 legal assistant. We're trying to figure out, which we had to
19 figure out the schedule and a budget, which we're working on.
20 But we go past \$15,000 so fast, respectfully, it makes your
21 head swim. And Your Honor is, I'm sure, where the
22 investigation itself took multi-years, --

23 THE COURT: I understand. And you know I've already
24 found in one case that it's complicated enough, based on that
25 as one of the factors, that where the person couldn't hire an

1 attorney, two attorneys were warranted. So I don't disagree
2 with you, but that's not the inquiry here.

3 MR. RAVKIND: Is Your -- let me understand it. Your
4 Honor is asking me whether or not I believe the evidence shows
5 that he has enough money to retain any qualified criminal
6 lawyer?

7 THE COURT: No. That's not my inquiry. My inquiry is
8 whether or not he is financially unable to hire counsel. Yes.

9 MR. RAVKIND: For this case, I think there's no doubt
10 that he could not get -- hire counsel with the liquid and
11 illiquid assets that he's got.

12 THE COURT: Okay. There is no way I can find that he
13 can't with the liquid and illiquid assets he has now. He can't
14 have those and get me to appoint an attorney for him. He can't
15 have that money sitting here or potentially sitting here and
16 say he doesn't -- he can't hire an attorney. There are no
17 attempts that I know of. You know, treating Mr. Price just
18 like everyone else, --

19 MR. RAVKIND: I agree.

20 THE COURT: -- there are no attempts that I know of
21 that he's attempted to retain counsel and been unable to.
22 There are no attempts that I know of, and I've asked about that
23 this morning, for him to actually make -- determine or make
24 some attempt to liquidate his illiquid assets. There is not
25 even an acknowledgment of how much he does have in cash

1 available.

2 So, I mean, what do I do with that? I have to treat him
3 just like I treat everyone else, and there is no one else who
4 could come in here with those kind of assets and I could find
5 that they couldn't afford their own attorney.

6 MR. RAVKIND: Your Honor, respectfully, you know, I've
7 already started -- we've -- I've started working on discovery
8 because, although we have a year and change to get ready, it'll
9 take that. I don't know how many, the documents, I can't count
10 that high, how many there are. I don't have that long. And a
11 lawyer who got involved now I don't think would get involved --
12 obligate himself to -- I don't -- once you're involved, you're
13 involved. You know, you'd have to go back to court to get out.
14 You just -- just when you find out there's not enough money.
15 And there's not enough money to do the discovery.

16 THE COURT: Well, now --

17 MR. RAVKIND: I can -- I know that from a --

18 THE COURT: As I've mentioned to you previously,
19 that's a separate issue. Nothing about this precludes you from
20 requesting to share in the discovery that will be available to
21 the CJA attorneys. And it happens.

22 MR. RAVKIND: Your Honor, I'm just, again,
23 respectfully, I'm of the opinion that the lawyer who tries the
24 case ought to prepare it. I know it doesn't happen all the
25 time, but generally, criminal defendants lose, and they lose

1 for a lot of reasons. That's one of them.

2 THE COURT: Well, I think we're talking about two
3 different things, though.

4 MR. RAVKIND: I'm not trying to.

5 THE COURT: Sounds like it, though.

6 MR. RAVKIND: What I'm trying to say is that I'm aware
7 of the -- what liquid assets are available. At least, I've
8 been told what they are. I have not gone out and had an
9 investigator go check them out. And that's not enough money to
10 get somebody to commit themselves to get involved in this case
11 and stay to the end. There's just not -- no one will do it.

12 THE COURT: Okay. Well, Mr. Ravkind, I can almost
13 guarantee you that the Government would not pay you if you were
14 appointed as much as the liquid and illiquid assets of Mr.
15 Price are worth. CJA counsel is just not compensated that way.

16 MR. RAVKIND: And I don't think I'm really asking for
17 that.

18 THE COURT: Then I don't understand your request.

19 MR. RAVKIND: I'm saying that my experience with Mr.
20 Price, because I've known him a long time, I've represented him
21 a lot of times, a number of times, so I'm familiar --

22 THE COURT: I know.

23 MR. RAVKIND: -- with what he's got.

24 THE COURT: Uh-huh.

25 MR. RAVKIND: And if he has -- I'll just take a figure

1 out of the air -- if he's got \$50,000 total, I don't know what
2 you could sell those cars for. I have no idea. Every time I
3 get involved in a case where we're selling assets, it doesn't
4 work. All of a sudden all the friends are gone. People who
5 will buy it are looking for bargains. You can't do it. And
6 our problem is we need to be getting ready now, right this
7 second. But I can tell John to go out and try to sell his
8 cars. That's not going to get us anywhere. Those cars are not
9 going to sell for much. They're restored cars that he
10 restored, and so I don't know exactly -- I've asked Shirley to
11 be involved. She has refused to get involved until we get
12 court-appointed, because I don't think --

13 THE COURT: She wants to get paid.

14 MR. RAVKIND: Well, let's put it this way. She don't
15 want to be running up hours and we're not court-appointed.
16 What I'm hearing right now, though, we haven't given you enough
17 information to be court-appointed.

18 THE COURT: Well, the information that I have says to
19 me you don't qualify for court-appointed counsel. That's what
20 the information that I have before me now says.

21 MR. RAVKIND: I don't know what -- how much -- see,
22 I'm kind of talking a little to myself, but I don't know how
23 much you think he's got.

24 THE COURT: Well, I think that the Government made a
25 good point about several of his assets, and you've not

1 contested that. In addition to that, on his financial
2 affidavit, he says that he earns \$6,500 approximately a month.
3 Just from looking at the news, I know that Commissioners earn
4 more than that a month. You know, I know that he has real
5 estate, even if it's -- even if his -- and he has real
6 property, even if his son is living in it. You know, that's
7 the kind of thing that I can't take into consideration, making
8 sure his son has a place to live. If he's got that asset and
9 he can liquidate it, then he needs to liquidate it. Or find
10 some other way to use whatever equity he has in it toward his
11 representation.

12 So, to me, it's not what you haven't presented; it's what's
13 there and there's no contest about, there is no argument about.

14 MR. RAVKIND: Well, respectfully, Your Honor, we have
15 more discovery than I've ever seen in any case ever, and I've
16 been in an awful lot of cases. And I don't know any way to get
17 in and say, well, I'll get involved and hope that maybe he'll
18 hit a home run on selling assets, because I don't think he
19 will. I just --

20 THE COURT: Or respectfully, Mr. Ravkind, maybe you
21 shouldn't take that on, then. I mean, --

22 MR. RAVKIND: Maybe.

23 THE COURT: -- maybe. Maybe that's the solution, that
24 you not take it on because you're not able to make that
25 commitment to him. And maybe that's a frank talk you should

1 have with him about it, as opposed to having the taxpayers pick
2 up his bill. You know: Either you're going to use this and
3 you're going to liquidate these assets to pay me or someone
4 else, or you're going to be in trouble.

5 MR. RAVKIND: Well, I wouldn't have any problem making
6 a deal with the Government that if we're able to liquidate
7 these assets for anywhere near that it would take to try this
8 case, I'll just give the money to the Government. I've seen
9 that happen.

10 THE COURT: Well, you know, what we do routinely is,
11 when someone's on the line and they can contribute something,
12 we order them to pay towards the cost of their attorney. I
13 don't think Mr. Price is on the line, with what I see here. I
14 believe that he has funds that he could hire his own attorney.
15 And you're not presenting evidence to me different than that,
16 although you're -- I understand your argument.

17 MR. RAVKIND: Well, I don't know if -- respectfully, I
18 think it's evidence, because I'm saying as a lawyer, and I
19 think Ms. Lobel would say the same thing, you can ask her, but
20 what he has and what we think he could reasonably raise, if he
21 could raise anything, would not -- is not enough to try this
22 case and to get ready for it. Getting ready for it is probably
23 more expensive than trying it. You don't know that until you
24 get involved in it, but I would hate to be the lawyer who tried
25 a case and had not reviewed all of the discovery. And just the

1 time it would take to review the discovery is unbelievable.

2 THE COURT: I understand. And Ms. Lobel knows,
3 because we've had a case together with a discovery issue where
4 she's actually gotten to the point where she wasn't getting
5 paid anymore. But the way it started out was her client was
6 able to afford his own -- I can't remember if it was a him or
7 not -- his own attorney, you know, and that's where we are now.
8 We're not looking at, you know, what his situation is down the
9 road, but right now what he has are assets that don't make him
10 indigent under any measure.

11 MR. RAVKIND: Well, then what you're telling, under
12 any measure, he's not going to be able to get a lawyer to get
13 ready for the case.

14 THE COURT: Okay.

15 MR. RAVKIND: Because no lawyer --

16 THE COURT: Well, it would be my suggestion, though,
17 that he at least be able to come back and tell -- and represent
18 to the Court that he's made those inquiries --

19 MR. RAVKIND: Yes.

20 THE COURT: -- and show me some proof of that, that
21 with the assets he has now, looking at what the Government said
22 there is, liquid and illiquid, and what you know and you've --
23 and he's mentioned in his financial affidavit there is, that he
24 could not find anyone who would be willing to take him on for
25 that.

1 So, I can -- I mean, so basically I guess I will deny it,
2 then, without prejudice to if in the future there is some
3 additional evidence along those lines you want to present. I
4 mean, you know, there's just --

5 MR. RAVKIND: Well, the assets are -- he's listed his
6 assets, as far as I know.

7 THE COURT: Well, they're so different than what was
8 in the Government's response.

9 MR. RAVKIND: Well, the Government gave a rather
10 generous view of what used cars sell for.

11 THE COURT: Well, but the Government starts with
12 \$60,000 in a campaign account which under Texas law he can use
13 in this case because some of the charges relate to his
14 employment, relate to his position.

15 MR. RAVKIND: Your Honor, I think -- I've been around
16 long enough to know when I'm losing an argument.

17 THE COURT: I don't -- I'm just trying to make sure
18 that I'm handling this the way I would handle any other case.
19 That's all.

20 MR. RAVKIND: And I don't think --

21 THE COURT: I'm not trying to argue with you.

22 MR. RAVKIND: I don't think if the Lord himself walked
23 in here he could get a lawyer to handle the discovery and the
24 trial of this case for anywhere \$60,000. Not even --

25 THE COURT: But that's not all. That's where it

1 starts, but that's not all. And I can't imagine that he can't
2 find a lawyer who wouldn't take that as a retainer, knowing
3 that he has other assets from which he can raise money to pay,
4 including a rather generous salary.

5 And as I said, that doesn't preclude him from applying to
6 share in the discovery, which you know there is going to be a
7 group discovery of all those terabytes of information. It
8 happens all the time. It doesn't prevent him from, if his
9 circumstances are different and he's actually found out he
10 can't sell any of those assets, coming back and showing the
11 Court at that point the efforts, proof of the efforts he's made
12 to do so and been unsuccessful.

13 MR. RAVKIND: Your Honor, I --

14 THE COURT: But at this point, --

15 MR. RAVKIND: Your Honor, there's a forfeiture count.
16 There's a forfeiture case and a forfeiture count.

17 THE COURT: But it didn't include those assets that
18 were listed. Maybe I'm wrong about that. Let me hear --

19 MR. RAVKIND: Well, the indictment --

20 THE COURT: Let me hear from you, Mr. Junker.

21 MR. JUNKER: Your Honor, the forfeiture count does not
22 -- the forfeiture count in the indictment is for a money
23 judgment. So that would be something he would be concerned
24 about at the end of the case, not right now. It's not being
25 used to --

1 THE COURT: Have any of those assets you listed that
2 are illiquid been seized or is there some lien on them?

3 MR. JUNKER: No, Your Honor.

4 THE COURT: Okay.

5 MR. JUNKER: The asset forfeiture civil case is
6 separate and apart. That involves money that was found in
7 Commissioner Price's safe as well as money from a land sale.
8 And that's in a separate case before Judge Fitzwater. Those
9 proceedings have been stayed, and that's the status of that.

10 THE COURT: But that's been seized, so that's not
11 something he can use.

12 MR. JUNKER: Those have been seized, yes.

13 THE COURT: That's what I'm trying to figure out.

14 MR. JUNKER: That is correct, Your Honor. Yes.

15 And Your Honor, just because, again, we're taking no
16 position on this one way or the other, we're just presenting
17 the Court with additional facts, I want to make certain that
18 the Court knows that the estimate that I arrived at for the
19 \$60,000 for Commissioner Price's campaign funds, he's required
20 to report, as I understand it, every six months. So there is a
21 time lag there as far as what the exact current amount is in
22 that campaign account. We can't tell you other than what we've
23 -- you know, the process that I outlined in the response to the
24 Court. That's something you would have to ask Commissioner
25 Price.

1 MR. RAVKIND: Your Honor, what it sounded like is that
2 he's not going to -- we're getting the discovery now. Our --
3 my office has got so much stuff in there I can't even -- I
4 don't know whether -- I've never seen that much before in my
5 life. I think most of it is going to turn out -- I've been
6 doing this too long not to know it -- is going to be
7 irrelevant. But I don't know that. Because I think the lawyer
8 who doesn't do total discovery, even though you think that it's
9 excessive, is just looking for a writ. He might as well just
10 file it himself, because if he loses, that's what's going to
11 happen. And --

12 Shirley, have you got anything to add?

13 MS. LOBEL: Well, I've not entered an appearance as
14 counsel. I don't know if you want to hear from me or not,
15 Judge Toliver. I'd be happy to speak, but I --

16 THE COURT: It --

17 MS. LOBEL: I have not entered an appearance.

18 THE COURT: I understand that.

19 MS. LOBEL: Yes.

20 THE COURT: And with that proviso, if you'd like to
21 add something, feel free.

22 MS. LOBEL: I'm happy to make some remarks.

23 Number one, I don't think there's any discrepancy
24 whatsoever between what was filed with the Court in support of
25 the application and what the Government has come back with.

1 The figure that is listed on his take-home is after all
2 deductions. It's not meant to be anything other than that.
3 So, to the extent that that might appear to be a discrepancy,
4 it is not.

5 THE COURT: And let me say I assumed so, but usually
6 in these situations I have the person here to say, and what
7 kinds of things are deducted, or the check stub or something,
8 and I don't have any of that. And so I'm just trying to go
9 forward with --

10 MS. LOBEL: Of course, Your Honor.

11 THE COURT: -- what I have.

12 MS. LOBEL: And I'm sure that Mr. Price would be more
13 than happy to do that. His salary is -- certainly, it's
14 published regularly on the front page of the *Dallas Morning*
15 *News*, --

16 THE COURT: Right.

17 MS. LOBEL: -- as the case is tried --

18 THE COURT: Right.

19 MS. LOBEL: -- repeatedly in the newspaper, for
20 reasons I can't quite fully grasp. But in any event, that's
21 not a misrepresentation or anything that even belongs in that
22 universe.

23 THE COURT: Uh-huh.

24 MS. LOBEL: It's just what his take-home pay is.

25 THE COURT: But it's not -- you will agree with me

1 that it's not a complete representation, without knowing what
2 is coming out of his salary.

3 MS. LOBEL: I wouldn't characterize it as incomplete,
4 but I would be more -- that's what his take-home pay is. But
5 he's more than happy to provide his check stubs. And frankly,
6 I'm sure that, had it been known that that was needed, that's
7 precisely what would have occurred.

8 I don't think that -- I think these cars are what's known
9 in the law as a (incomprehensible). I don't think there's
10 anything about these -- I think if you put these cars up for
11 auction tomorrow -- and the Government may or may not be aware
12 of this -- but if you put these cars up for auction tomorrow, I
13 agree with Mr. Ravkind's observation that this wouldn't get us
14 halfway to first base. But those are indeed assets he has, and
15 assets that have been disclosed.

16 You have a situation where the amount of work, we're not
17 even getting to trial yet. I understood what the Court was
18 saying on that. Let's talk about this stage of the
19 proceedings, if I'm reading the Court correctly. This stage of
20 the proceedings, you have a -- nearly-unprecedented accusations
21 against a sitting public official where a majority of his
22 assets that could be used to defend himself have been seized by
23 the Government for a period of time. You have an accusation
24 that covers 10 years. I began -- I have read the indictment,
25 and I began counting the number of factual assertions in the

1 indictment, and I kept having to redo it because there were so
2 many. But it is not a misrepresentation to say to the Court --
3 I'm sure the Court's read the indictment but probably hasn't
4 counted the assertions -- there are hundreds of those.

5 The Court has spoken of discovery. I'd like to say this
6 about discovery in Commissioner Price's defense. Discovery is
7 the single most important thing that is going to occur at this
8 stage of the proceedings for defending him. What the Court has
9 said today about these assets being sufficient to hire a
10 qualified lawyer for this case -- and let me just say that for
11 this type of case, in this region, respectfully, there aren't
12 dozens and dozens of lawyers, frankly, who are qualified for
13 this kind of case. It is not merely complex; it is a highly
14 complex federal case. It's a first magnitude case. And as Mr.
15 Ravkind observes, it's beyond anything he's ever seen, and he's
16 kind of seen it all.

17 In the very context of discovery, *Wardias v. Oregon* says
18 you've got to at least shoot for a level playing field. The
19 very notion that what Commissioner Price is confronting here is
20 a level playing field is, and I mean this with utmost respect
21 to the judicial system, is pure bunk. There is not a level
22 playing field. There's nothing even remotely approaching a
23 level playing field. And the only thing that will achieve that
24 is for him to have adequate legal representation by persons
25 qualified in this kind of case, and to have a person who is

1 doing -- conducting the discovery and processing it who has
2 some appreciation of what the issues are in a case.

3 Now, we have four defendants in this case. We have one
4 who's a little different from the others in some respect who's
5 had none of his assets seized. He's not had his arms tied
6 behind his back as he tries to mount a defense. And I think --
7 I want to -- I'm kind of wandering, and you'll have to forgive
8 me, but I'd like to go back to the representations. The
9 representations are to the tax value of, for example, his
10 residence. But that residence is leveraged beyond its value,
11 if I even read what the Government had to say correctly. There
12 is a rental property and some cars that are unencumbered, and
13 that's it. I think every -- I mean, we can certainly --

14 THE COURT: Now, I've not made any reference to his
15 residence.

16 MS. LOBEL: No, --

17 THE COURT: But I did make reference, when I talked
18 about real property, to the rental property, just to be clear
19 what I was speaking of.

20 MS. LOBEL: That is absolutely accurate. I did not
21 misunderstand the Court. I did not speak clearly. What I was
22 referring to was when the Court said the values that the
23 Government pointed to are different than the values in Mr.
24 Price's motion. And my only point is that motion used tax
25 values and identified them as such.

1 The only other thing was the campaign funds. I didn't
2 realize they'd designated a particular amount in there, --

3 THE COURT: Yes.

4 MS. LOBEL: -- but there was a reference to that. And
5 the other thing was the community defense fund, which was
6 raised in the aftermath of the seizure of -- the first of
7 three, I believe would be correct, seizures of his assets. And
8 when that was done, the community raised some monies to support
9 him. And I will represent to the Court I don't know the exact
10 amount of that, but it was under \$40,000 total.

11 THE COURT: Let me ask you this. How can I know, I
12 mean, what would be the best course to take so that I know
13 what's in that fund, what's in the campaign fund, what those
14 assets would or might sell for if there's any interest at all
15 in anybody buying them?

16 MS. LOBEL: To --

17 THE COURT: What would be the best course for me to
18 take in order to know those things?

19 MS. LOBEL: Well, I don't quarrel at all if the
20 Government's making a representation to the Court that that's
21 the amount of money in there. I have no idea what it is. I
22 don't think you have to compel them to go and get that money.

23 As far as the defense funds from three years ago, the money
24 that was collected then, I can represent to the Court as an
25 officer of the Court that the number of hours I have spent on

1 Mr. -- on Commissioner Price's behalf have far exceeded that
2 amount of money and those were -- those have been depleted,
3 just in terms of the assistance I've afforded to Mr. Ravkind.

4 I do think it's very important to again stress, with
5 respect to both the number of factual assertions in this
6 indictment and the amount of discovery in this case,
7 respectfully, Your Honor, I think in -- you're posing something
8 that makes it impossible for him to defend himself. You've got
9 6.5 terabytes of information, and a lot of other information as
10 well. Just to give the Court one example, Mr. Ravkind was told
11 this week that in order to get one item of additional evidence,
12 the Commissioners Court's recordings, which certainly will be
13 essential, that he needed to provide a 2-terabyte hard drive in
14 order to get that. We are now up to 8.5 terabytes and still
15 counting. There is a lot of more material that's involved.
16 We're getting very close, at the end of the day, I'm going to
17 wager, to 10 terabytes of information.

18 In the case the Court mentioned a moment ago, and this will
19 be familiar to the Court, maybe not to everyone else, but 10
20 terabytes of information in that case, as a matter of the
21 official record as stated by both the Court and the Government,
22 is the equivalent of the printed volumes of the Library of
23 Congress. And you're asking someone with some cars that he has
24 restored over the years and one --

25 THE COURT: So, let me ask you this. So, you think

1 that he should be appointed attorney or attorneys and that he
2 should still retain the monies that are in his campaign fund,
3 any other monies he has out there, not have to pay anything
4 from his own salary, keep his cars, keep the house he doesn't
5 live in, and the Government should just pick up the tab for his
6 lawyer at this point? Or lawyers?

7 MS. LOBEL: I think, given the measures the Government
8 has seen fit to use in this case, which have left him without
9 the realistic ability to defend himself in a way where the
10 lawyers are reasonably compensated, I think that that is very
11 much the case.

12 Let me say some -- let me make a few comments about the
13 campaign fund. A campaign fund exists for a public official --
14 who, by the way, has been convicted of nothing -- a public
15 official has a campaign fund because people have contributed to
16 his campaign in order that he may secure his position and
17 attain reelection. Respectfully, I think that to require him
18 to use that money for another purpose is -- violates either the
19 Tenth or the Eleventh Amendment, I can't remember which one it
20 is, but I also think that it does an injustice to the people
21 who have contributed that.

22 THE COURT: You know, every day, though, defendants
23 pay for their own defense, and they use money and they're
24 acquitted. It's unfair that they use their money and they're
25 acquitted, but it doesn't change the fact that they have to use

1 their resources to mount a defense.

2 MS. LOBEL: But Your Honor, respectfully, I think the
3 Court is urging a result that is --

4 THE COURT: I'm not requiring him to use anything. My
5 sole determination is whether or not he has the resources to.
6 Whether he decides to or not, or whether any particular
7 attorney, you or Mr. Ravkind, decides that you're going to
8 represent him or not represent him if he doesn't, is a whole
9 separate issue than the one that I'm confronted with today,
10 which is, looking at his body of resources, is it sufficient
11 for him to hire an attorney?

12 MS. LOBEL: His body of resources are the cars, the
13 home in which his son lives, and the funds that are in -- his
14 campaign funds. And the question is --

15 THE COURT: And that portion of his salary. That
16 doesn't --

17 MS. LOBEL: And his -- and a portion of his salary.

18 THE COURT: Uh-huh.

19 MS. LOBEL: I think it would be -- I respectfully
20 suggest -- and I understand the Court's caution about doing
21 this exactly correctly. The truth is that, in doing
22 calculations of the number of -- absolute minimum number of
23 hours -- and perhaps it would be useful to have representations
24 from the Government as to the amount of time that Government
25 personnel have devoted to this case, I'm going to say over the

1 last five years. We know there have been three years since the
2 search warrant and we know there was a considerable period of
3 time before that. So we know we have probably five years of
4 time from various federal agencies, not just one, not to
5 mention personnel from the U.S. Attorney's Office, not merely
6 attorneys but their support personnel, and agents and their
7 support personnel. And I would be willing to bet that an
8 accurate representation or estimate of that amount of time
9 devoted to this case would be interesting on so many levels,
10 but certainly on the economic level. Because we are asking a
11 man whose assets have been seized by the Government to go into
12 court with \$60,000, some portion of his salary, and trying to
13 sell his -- the son -- and I don't think the Court's
14 responsible for housing Commissioner Price's son. Please don't
15 misunderstand that. But if you put all of that money in a pile
16 -- and I wouldn't put the cars there if I were the Court, but
17 if the Court cares to -- it's not going to be enough to hire
18 what he needs for this case. And when you -- the flip side of
19 the coin we've been discussing is this isn't a one-count bank
20 fraud case from a few years ago. We're going back in time to
21 2001, Your Honor. We are trying to reconstruct events and do
22 the discovery necessary to figure out what happened for a
23 period of 10-1/2 or more years. That is an undertaking that if
24 the courts truly want an even playing field or anything
25 approaching that, you're going to have to devote the resources

1 to make it reasonable.

2 Anyway, the results of a calculation of what's required.
3 An absolute minimum for this period of time would be 3,000
4 hours for an attorney, 1,500 apiece divided between two
5 lawyers, and whoever your discovery person was. Right now,
6 that's a full-time job. I appreciate what the Court said about
7 using CJA, whatever the CJA lawyers do. But does that mean
8 we're going to be utilizing a processor and a retriever of
9 information in the discovery who has the federal criminal fraud
10 background to understand what the attorneys are looking for and
11 what they need? Does it mean that the processing is going to
12 be done in the best possible way for the defense to retrieve?

13 Commissioner Price is happy to provide anything that the
14 Court needs. I think his financial finances are fully laid out
15 to the Court. I think they are woefully inadequate to even
16 remotely attempting to represent him in an effective way. Just
17 because Mr. Ravkind loves the guy and has represented him for
18 25 years and feels an obligation towards him is not really a
19 fair factor to include in the Court's evaluation. Two lawyers
20 -- I think Mr. Ravkind's representation in his reply to the
21 Government, that if you took the largest law firm in this area
22 and had them devote the resources that the Government has
23 devoted to this case over time, maybe then you would achieve
24 it.

25 THE COURT: We don't get to try to make it even.

1 MS. LOBEL: I know you don't. But I think the law
2 affords the Court enough latitude to do that which can be
3 realistically achieved.

4 Now, if the Court were to see this as what would be
5 reasonable to devote to his defense, if the Court is saying he
6 should contribute a certain amount, that seems to me another
7 question. But to look at --

8 THE COURT: But that's the question that we ask when
9 we appoint attorneys. That's one of the things I decide. I
10 decide whether or not he is indigent and --

11 MS. LOBEL: He's not indigent.

12 THE COURT: Or not indigent, but whether or not he can
13 afford to hire his own counsel. Whether or not he can afford
14 to contribute to it, even if he's not able to fully afford to
15 hire his own counsel. So, those two things are hand in hand.
16 They're not different inquiries for me.

17 MS. LOBEL: No, I understand, Your Honor. And he
18 certainly is a salaried individual. He has a decent salary.
19 He has assets that are --

20 THE COURT: Well, let me --

21 MS. LOBEL: -- commensurate with a person of his
22 standing.

23 THE COURT: Let me ask you this, since he's not here.
24 Normally, I would ask him. Is that his signature, Mr. Ravkind
25 --

1 MS. LOBEL: Yes, Your Honor. Yes.

2 THE COURT: -- or Ms. Lobel?

3 MS. LOBEL: Yes.

4 THE COURT: And it does say that it's under penalty of
5 perjury that he signed this, so I'm assuming that his estimate
6 of his monthly payments is correct, to the best of his
7 knowledge and ability at the time, --

8 MS. LOBEL: I believe so, Your Honor.

9 THE COURT: -- which it looks like to me they come up
10 to approximately \$4,000 a month. Is that what you saw?

11 MS. LOBEL: I don't have it in front of me, --

12 THE COURT: Okay.

13 MS. LOBEL: -- but if that's the -- what was filed and
14 that's what's on there, I would say --

15 THE COURT: And he's saying he's taking home \$6,500 a
16 month approximately?

17 MS. LOBEL: That's what his check comes to.

18 THE COURT: And I'm assuming that out of his check,
19 just because I know what comes out of mine, he's probably
20 paying into some kind of retirement thing in addition to that?

21 MS. LOBEL: That, I can't -- that, I can't verify.

22 THE COURT: His taxes, unless he's got some
23 garnishment from the federal government, are not going to come
24 up to the difference between the two.

25 MS. LOBEL: No, no, I am sure there are other items --

1 THE COURT: Okay.

2 MS. LOBEL: -- taken out of his check.

3 THE COURT: Okay.

4 MS. LOBEL: I just can't tell the Court --

5 THE COURT: Some items are necessities and some
6 aren't. That's why I'm asking.

7 MS. LOBEL: Absolutely.

8 THE COURT: And I can't tell from this.

9 MS. LOBEL: And I would wager, I don't know this for a
10 fact, but I would wager one of those deductions is a car.

11 THE COURT: Uh-huh.

12 MS. LOBEL: Cars seem to feature prominently in his
13 life.

14 THE COURT: They do. Okay. And Mr. Ravkind, were you
15 asking for yourself to be appointed as CJA counsel and an
16 additional CJA attorney appointed to this case?

17 MR. RAVKIND: Yes, ma'am.

18 THE COURT: And that would have been you, Ms. Lobel?

19 MR. RAVKIND: Ms. Lobel.

20 MS. LOBEL: That is who Mr. Ravkind was requesting.

21 THE COURT: Okay. Are you both still on the CJA list?

22 MS. LOBEL: Yes.

23 THE COURT: Okay. Are you on the CJA list, Mr.
24 Ravkind?

25 MR. RAVKIND: I don't know. I was the first one ever

1 on it, so I don't know if I'm still on it or not.

2 THE COURT: Okay.

3 MR. RAVKIND: I still --

4 THE COURT: I'm going to assume you're on it, and if
5 you're not on it, you're going to get on it really quickly.

6 MS. LOBEL: I know he's had CJA appointments. Wasn't
7 that -- yeah.

8 THE COURT: Okay. Based on the complexity of this
9 case, I'm going to find that Mr. Price cannot afford to hire
10 competent counsel without the assistance of taxpayers, so I'm
11 going to appoint CJA counsel to represent him, Mr. Ravkind and
12 Ms. Lobel.

13 However, I do find that Mr. Price can contribute to the
14 cost of his attorneys. I'm going to order him to deposit in
15 the registry of this Court, no later than October 15th,
16 \$60,000. And I'm going to order that he pay into the registry
17 of the Court during the pendency of this case, taking into
18 consideration his rental property, his -- that he -- his
19 illiquid assets as well as his salary, the sum of \$2,000 per
20 month. So, that \$2,000 per month will be -- how often does he
21 get paid, do you all know? How does the County pay?

22 MS. LOBEL: I'll bet Mr. Junker knows that better than
23 I do.

24 THE COURT: Do you, Mr. Junker?

25 MR. JUNKER: Judge, if memory serves, it's twice

1 monthly.

2 THE COURT: Twice monthly? I'm going to make, then,
3 that be payable twice monthly, \$1,000 payments, on the 16th of
4 each month, the 1st and the 16th of each month. And I'm going
5 to start those on October 1st. October 1st.

6 So, Mr. Price will be required to pay \$60,000 into the
7 registry of the Court no later than -- how long did I say I was
8 giving him for that?

9 THE CLERK: The 15th of October.

10 THE COURT: The 15th of October. And will make
11 periodic payments of \$1,000 each on the 1st of October and the
12 -- starting the 1st of October, on the 1st of each month and
13 the 16th of each month.

14 Now, we have an order that will set all of this out. I
15 don't think that we have the order right here, but we'll get
16 the order and it will state that. It's as good as it's going
17 to get today. So, if Mr. Price -- I will give him veto power.
18 If he does not want this order to be entered, then please let
19 me know by the end of day today.

20 MS. LOBEL: Thank you, Your Honor. Will the Court be
21 providing a copy of the order for us to review before you
22 actually enter it?

23 THE COURT: Okay. It's a form order.

24 MS. LOBEL: Okay.

25 THE COURT: Because we do it all the time. But --

1 MS. LOBEL: We have what the Court --

2 THE COURT: Okay. It's a form order. But I'm not
3 going to enter it before tomorrow morning. That will give you
4 an opportunity to let me know if that's not something that he
5 wants to go forward with, because it is requiring much of him.

6 Yes, Mr. Junker?

7 MR. JUNKER: Judge, I'm not certain that this is
8 appropriate, given the subject matter of the hearing, but it's
9 been brought up repeatedly, and that is discovery in this case.
10 I would also ask that the Government be informed whether or not
11 Mr. Price will be participating in the joint discovery --

12 THE COURT: Now that Mr. Price has CJA counsel, I
13 assume so.

14 MR. JUNKER: I just need an answer, because it's
15 holding up the discovery. And understandably, Mr. Ravkind
16 wanted to wait until after this hearing to decide.

17 THE COURT: We were trying to get to it as soon as we
18 could.

19 MR. JUNKER: I'm sorry.

20 THE COURT: That's why we expedited the responses.
21 But as soon as we know today. Once he has CJA counsel, if he
22 decides to go that way, then he's entitled to share in. So, --

23 MR. JUNKER: Thank you, Your Honor.

24 THE COURT: Okay. Yes, ma'am?

25 MS. LOBEL: I just wanted --

1 THE COURT: You have now -- you've been appointed
2 provisionally. Go right ahead.

3 MS. LOBEL: So I may speak officially?

4 THE COURT: Yes.

5 MS. LOBEL: I just wanted to say that there have been
6 -- there is an ongoing discussion with the Government about
7 various discovery issues and how to best proceed it that are
8 large and multifaceted, but we will proceed expeditiously.

9 THE COURT: Right. And Marlo -- that's not her last
10 name.

11 MR. JUNKER: Marlo Cadeddu?

12 THE COURT: Marlo Cadeddu, Ms. Cadeddu, is going --
13 has volunteered to coordinate for --

14 MS. LOBEL: That's very nice of Ms. Cadeddu, and we
15 appreciate it.

16 THE COURT: -- the Defendants the --

17 MS. LOBEL: But Mr. Price --

18 THE COURT: -- electronic discovery. Go ahead.

19 MS. LOBEL: Mr. Price will respectfully ask to handle
20 that matter, to have his counsel handle that matter, rather
21 than to have someone else's counsel do so. But I don't want to
22 burden the Court with that now. I just didn't want to not say
23 anything in response to the Court.

24 THE COURT: After we resolve this issue regarding Mr.
25 Price's counsel, --

1 MS. LOBEL: Uh-huh.

2 THE COURT: -- I'll be issuing an order requesting
3 budget proposals from each of defense counsel appointed in this
4 case, because, realizing that this is an extraordinary case,
5 the budget will have to be preapproved, --

6 MS. LOBEL: Of course.

7 THE COURT: -- the proposed budget. And you've done
8 that before. And so we'll get to that process as soon as we're
9 done with this particular motion, which is kind of --

10 MS. LOBEL: I just wanted to make sure --

11 THE COURT: -- a monkey wrench in things.

12 MS. LOBEL: -- we were on record in response to --

13 THE COURT: I appreciate that.

14 MS. LOBEL: -- what the Court said.

15 THE COURT: I appreciate that.

16 MS. LOBEL: Thank you, Your Honor.

17 THE COURT: You don't have to share in if you don't
18 want to share in, but there's going to be limited funds
19 available for the electronic discovery.

20 MS. LOBEL: And that's why we have gone to the
21 Government with a proposal that we're discussing now.

22 THE COURT: Okay.

23 MS. LOBEL: Thank you.

24 THE COURT: All right. Anything else related to this
25 matter we can take up today? Because I think this matter is

1 the only thing that I have that I have authority to take up
2 today.

3 MR. JUNKER: Not from the Government, Your Honor.
4 Thank you.

5 THE COURT: Okay. Then we're adjourned. Thank you.

6 MS. LOBEL: Thank you, Your Honor.

7 THE CLERK: All rise.

8 (Proceedings concluded at 11:19 a.m.)

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CERTIFICATE

21 I certify that the foregoing is a correct transcript from
22 the digital sound recording of the proceedings in the above-
entitled matter.

23 **/s/ Kathy Rehling**

10/06/2014

24

25 Kathy Rehling, CET**D-444
Certified Electronic Court Transcriber

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